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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/635,994	08/09/2000	Howard Dernehl	DERN-00101	5407

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EXAMINER

YOUNG, JOHN L

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/635,994

Applicant(s)
Dernehl Et La.,

Examiner
John Young

Art Unit
3622



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 9, 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4-6 6) ☐ Other: _____

Art Unit: 3622

FIRST ACTION REJECTION

DRAWINGS

1. This application has been filed with drawings that are considered informal; said drawings are acceptable for examination purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3622

2. Claims 1-49 are rejected under 35 U.S.C. §103(a) as being obvious over Ng 6,405,175 (6/11/2002) [US f/d: 7/27/1999] (herein referred to as "Ng").

As per independent claim 1, Ng (the ABSTRACT; FIG. 3 through FIG. 10; col. 1, ll. 1-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 1-67; and col. 16, ll. 1-35; i.e., whole document) shows the elements and limitations of claim 1.

Ng lacks an explicit recitation of "offering a potential reward to a first party in exchange for promotional assistance of the first party, the promotional assistance comprising assistance in a forwarding of a first e-mail message to a second party, the first e-mail message comprising a personalized referral for the marketable entity, and a first set of data comprising a first serial number and a first URL link. . . ." even though Ng (the ABSTRACT; FIG. 3 through FIG. 10; col. 1, ll. 1-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 1-67; and col. 16, ll. 1-35; i.e., whole document) suggests same.

It would have been obvious to a person of ordinary skill in the art the time of the invention that the disclosure of Ng (the ABSTRACT; FIG. 3 through FIG. 10; col. 1, ll. 1-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 1-67; and col. 16, ll. 1-35; i.e., whole

Art Unit: 3622

document) would have been selected in accordance with “offering a potential reward to a first party in exchange for promotional assistance of the first party, the promotional assistance comprising assistance in a forwarding of a first e-mail message to a second party, the first e-mail message comprising a personalized referral for the marketable entity, and a first set of data comprising a first serial number and a first URL link. . . .” elements and limitations of claim 1, because such selection would have provided means for “*computer-assisted electronic commerce (e-commerce) . . . rewards programs. . . .*” (see Ng (col. 1, ll. 5-15)).

As per claims 2-45, Ng shows the method of claim 1 and subsequent claims depending from claim 1. (See the rejection of claim 1 supra).

Ng (the ABSTRACT; FIG. 3 through FIG. 10; col. 1, ll. 1-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 1-67; and col. 16, ll. 1-35; i.e., whole document) shows elements that suggest the elements and limitations of claims 2-45.

Ng lacks an explicit recitation of the elements and limitations of claims 2-45, even though Ng suggests same.

“Official Notice” is taken that both the concepts and the advantages of the elements and limitations of claims 2-45 were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and the

Art Unit: 3622

advantages would have provided means for “*computer-assisted electronic commerce (e-commerce) . . . rewards programs. . .*” (see Ng (col. 1, ll. 5-15)).

As per independent claim 46, Ng (the ABSTRACT; FIG. 3 through FIG. 10; col. 1, ll. 1-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 1-67; and col. 16, ll. 1-35; i.e., whole document) shows the elements and limitations of claim 1.

Ng lacks an explicit recitation of “offering a reward to a first party to assist in recommending a second marketable entity substantially similar to the first marketable entity to a second party wherein the recommendation results in a transaction. . . .” even though Ng (the ABSTRACT; FIG. 3 through FIG. 10; col. 1, ll. 1-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 1-67; and col. 16, ll. 1-35; i.e., whole document) suggests same.

It would have been obvious to a person of ordinary skill in the art the time of the invention that the disclosure of Ng (the ABSTRACT; FIG. 3 through FIG. 10; col. 1, ll. 1-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 1-67; and col. 16, ll. 1-35; i.e., whole document) would have been selected in accordance with “offering a reward to a first

Art Unit: 3622

party to assist in recommending a second marketable entity substantially similar to the first marketable entity to a second party wherein the recommendation results in a transaction. . . .” elements and limitations of claim 1, because such selection would have provided means for “*computer-assisted electronic commerce (e-commerce) . . . rewards programs. . . .*” (see Ng (col. 1, ll. 5-15)).

As per claims 47-49, Ng shows the method of claim 43 and subsequent claims depending from claim 43.

Ng (the ABSTRACT; FIG. 3 through FIG. 10; col. 1, ll. 1-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 1-67; and col. 16, ll. 1-35; i.e., whole document) shows elements that suggest the elements and limitations of claims 47-49.

Ng lacks an explicit recitation of the elements and limitations of claims 47-49, even though Ng suggests same.

“Official Notice” is taken that both the concepts and the advantages of the elements and limitations of claims 47-49 were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and the advantages would have provided means for “*computer-assisted electronic commerce (e-commerce) . . . rewards programs. . . .*” (see Ng (col. 1, ll. 5-15)).

Art Unit: 3622

PRIOR ART NOT RELIED UPON

3. The prior art reference made of record and not relied upon is considered pertinent to Applicant's disclosure:

6,289,318 U.S. Pat. [Sep. 11, 2001]

Barber

705/14

"METHOD AND ARCHITECTURE FOR MULTI-LEVEL COMMISSIONED ADVERTISING ON A COMPUTER NETWORK." This reference discusses referral rewards conducted over the Internet. (See the ABSTRACT; and whole document) Ref. claims 1-49.

CONCLUSION

4. Any response to this action should be mailed to:

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Any response to this action may be sent via facsimile to either:

(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED PROCEDURE) or

(703) 746-7239 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Art Unit: 3622

Hand delivered responses may be brought to:

Seventh floor Receptionist
Crystal Park V
2451 Crystal Drive
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

John L. Young

Patent Examiner

(Temporary Full Signatory Authority)

Patent Examiner

March 10, 2003